

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

In Re: )  
 )  
AREDIA and ZOMETA PRODUCTS ) No. 3:06-MDL-01760  
LIABILITY LITIGATION ) Judge Campbell/Brown  
(MDL No. 1760) )  
 )  
This Document Relates to: )  
Case No. 3:07-CV-00035 (William Supina) )

TO: The Honorable Todd J. Campbell

**REPORT AND RECOMMENDATION**

Currently pending before the Court is Novartis' Motion to Show Cause Why Plaintiff William Supina's case should not be dismissed. (DE 567). The Magistrate Judge previously submitted a Report and Recommendation that this case be dismissed as Plaintiff did not timely file a Plaintiff's Fact Sheet (PFS). (DE 654). This Report and Recommendation was rejected by the District Judge as Plaintiff objected to the Magistrate Judge's Report and Recommendation, stating that Mr. Supina had recently passed away and Plaintiff's counsel was attempting to locate, by way of a private investigator, the appropriate person to substitute. (DE 671, DE 684). The District Judge again referred to the Magistrate Judge for reconsideration and further proceedings. (DE 684).

Despite his assertions in October 2007, Plaintiff's counsel has not informed the Court that he has found a substitute representative. At this point, Plaintiff's counsel has had well over six months to attempt to locate a personal representative/next of kin.

For the reasons stated in the previous report and recommendation on this matter (DE

654), the Magistrate Judge recommends the Novartis' Motion for Order to Show Cause (DE 567) be **GRANTED** and that Plaintiff William Supina's case be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) for failure to respond to the PFS. Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has ten (10) days from receipt of this Report and Recommendation in which to file any written objection to it with the District Court. Any party opposing said objections shall have ten (10) days from receipt of any objections filed in which to file any responses to said objections. Failure to file specific objections within ten (10) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. *Thomas v. Arn*, 474 U.S. 140 (1985); *Cowherd v. Million*, 380 F.3d 909, 912 (6<sup>th</sup> Cir. 2004 (en banc)).

  
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JOE B. BROWN  
UNITED STATES MAGISTRATE JUDGE